

REMARKS

This Application has been carefully reviewed in light of the Office Action dated August 3, 2004. In order to advance prosecution of the present Application, Claims 1, 9, 11, 19-22, and 23 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1, 3-9, 11, 13, 14, and 17-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lamport, et al. in view of Hsing, et al. Applicant respectfully traverses this rejection.

Independent Claims 1 and 11 recite in general the ability to inhibit generation of a switch status message at one switch upon not receiving a switch status messages from another switch in order to initiate redirection of subsequent data messages over an alternate data path through said data network. By contrast, neither the Lamport, et al. patent nor the Hsing, et al. patent inhibit generation of a switch status message let alone using the inhibit capability to trigger a redirection of data messages onto an alternate path as provided by the claimed invention. Support for the above recitation can be found at page 11, lines 6-10, of Applicant's specification.

Independent Claims 22 and 23 recite in general the ability to send a switch status message to a first switch in response to not receiving a first data message from the first switch, where the switch status message initiates redirection of subsequent data messages over an alternate data path through a data network. The Examiner readily admits that the Lamport, et al. patent lacks any disclosure related to this feature. The Examiner uses the Hsing, et al. patent to support the disclosure of this feature. However, the Hsing, et al. patent merely discloses sending a re-route release

message for releasing bandwidth for a call from a first switch to downstream switches in response to detecting a link fault by the first switch. The Hsing, et al. patent does not provide a capability for the first switch to send a status message to an upstream switch to initiate redirection of subsequent data messages onto an alternate data path as required in the claimed invention. Support for the above recitation can be found at page 16, line 20, to page 17, line 5, of Applicant's specification.

Based on the foregoing, the Lamport, et al. and Hsing, et al. patents are insufficient to support a rejection of the claims. Therefore, Applicant respectfully submits that Claims 1, 3-9, 11, 13, 14, and 17-23 are patentably distinct from the proposed Lamport, et al. - Hsing, et al. combination.

Claims 2, 10, 12, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lamport, et al. in view of Hsing, et al. and further in view of McGill, et al. Independent Claim 1, from which Claims 2 and 10 depend; Independent Claim 11, from which Claim 12 depends; and Independent Claim 23, from which Claim 24 depends, have been shown above to be patentably distinct from the proposed Lamport, et al. - Hsing, et al. combination. Moreover, the McGill patent does not include any additional disclosure combinable with either the Lamport, et al. or Hsing, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 2, 10, 12, and 24 are patentably distinct from the proposed Lamport, et al. - Hsing, et al. - McGill combination.

Claims 15 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lamport, et al. in view of Hsing, et al. and further in view of Shew, et al. Independent Claim 11, from which Claims 15 and 16 depend, has been shown above

to be patentably distinct from the proposed Lamport, et al. - Hsing, et al. combination. Moreover, the Shew, et al. patent does not include any additional disclosure combinable with either the Lamport, et al. or Hsing, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 15 and 16 are patentably distinct from the proposed Lamport, et al. - Hsing, et al. - Shew, et al. combination.

Attached herewith is an Information Disclosure Statement with cited documents and check for consideration by the Examiner. Applicant respectfully requests the Examiner to consider the documents cited therein and provide an appropriate indication that the documents so cited have been considered during examination of the present Application.

Applicant respectfully requests a three month of extension of time for filing this Response to Examiner's Action. Attached herewith is a Notification of Extension of Time with check in support thereof.

CONCLUSION

Applicant has now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

The Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

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A handwritten signature in black ink, appearing to read 'Charles S. Fish', with a stylized flourish at the end.

Charles S. Fish

Reg. No. 35,870

February 3, 2005

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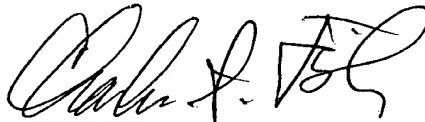
REMARKS

The responsibility for this Application has been given to the below named attorney. Pursuant to the Revocation of Attorney and Appointment of New Attorney document filed October 20, 2004, please change the correspondence address to:

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